

U.S. Trademark Violators List

NOTE to Customers: This specific website page has no bearing on the availability of Chuck Evans' MONTEZUMA Brand products. However, Chuck Evans' MONTEZUMA Brand Sauces & Salsas believes that this novel method of public notification of trademark infringers addresses the legal difficulties of maintaining and protecting a registered trademark, as well as the goodwill associated with the trademark, and therefore is constructive for consumer education about the theft of intellectual property rights.

* Knowingly using another company or individual's property without permission is theft.*

From the Halls of MONTEZUMA® to the HALL of SHAME . . .Chuck Evans' TRADEMARK VIOLATORS LIST

For any company desiring to be removed from the SMOKEY CHIPOTLE® Trademark Violators List, satisfactory settlement with Chuck Evans' MONTEZUMA Sauces & Salsas Brand is required.

UNITED STATES TRADEMARK INFRINGERS & TRADEMARK VIOLATIONS LIST

United States Patent & Trademark Office (USPTO)

Registration for SMOKEY CHIPOTLE® & SMOKIN' CHIPOTLE®

EPILOGUE

Most companies, from the smallest mom-and-pop operators to the largest food processors and multinational corporations recognize their responsibilities to the general public and the associated costs incurred by a trademark owner to protect intellectual property rights. These entities, through a mutually agreed settlement, promptly terminate any and all likelihood of confusion for their inadvertent infringement of our uncontested SMOKEY CHIPOTLE® trademark.

However, due to the confidentiality of the Settlement Agreements, Chuck Evans' MONTEZUMA® Brand, is not at liberty to disclose the names of the many companies and individuals that value and uphold their ethical, civic, corporate, and legal obligations to voluntarily comply with federal law, i.e., Title 15 of the United States Code, commonly known as the Lanham Act.

Chuck Evans MONTEZUMA Brand Sauces & Salsas, formerly Sauces & Salsas, Ltd., maintains the registration of an incontestable trademark filed November 5, 1993 at the United States Patent & Trademark Office [USPTO] for SMOKEY CHIPOTLE®; Registration No. 1,874,062 registered January 17, 1995 for product Class 30. Chuck Evans suggestive trademark was the very first USPTO application incorporating the word "chipotle". At that time, Chuck's suggestive use of the word "Smoke", which is a variant spelling, combined with the word "Chipotle", created a unique phrase suggesting Chuck's prepared condiments, including sauces, salsas, seasonings, and pepper sauces had smoke-flavored characteristics. Chuck introduced the chile chipotle, a processed spice, to mainstream American consumers, creating the very first commercially-manufactured chipotle pepper sauce and chipotle salsa made in the United States. Chuck marketed his one-of-a-kind SMOKEY CHIPOTLE® sauces and salsas through the many specialty food catalogs that peppered the United States before the onslaught of the internet. The general public had no previous knowledge of a "chipotle". Chuck's inclusion of the word "smoke" in his trademark phrase permitted consumers to immediately conclude Chuck Evans MONTEZUMA® SMOKEY CHIPOTLE® Brand Sauces & Salsas contained a smoky flavor, however; the general public had no idea of the chipotle's origin or definition. Ironically, 20+ years since Chuck introduced the chile chipotle, the general public is still unclear as to the actual definition of the word "chipotle", where "chipotle" in and of itself, is descriptive. Chuck's federal trademark, a redundant phrase of the definition of "chipotle", continues to stand the test of time by acquiring secondary meaning in suggesting the smoky flavor of Chuck Evans trademarked products.

SMOKEY CHIPOTLE®, including commercial expression, spelling variations, similar spellings, explicit or implicit definition, marketing construction, phraseology, phrase similarities, and phrase intent, is registered for Chuck Evans' exclusive use in commerce to prevent competitors in the same or similar classification from using a suggestive and/or confusingly similar mark or derivative of our trademarked phrase. However, no claim is made to the exclusive right to use the word Chipotle apart from the mark SMOKEY CHIPOTLE®; which mark has acquired secondary meaning where the SMOKEY CHIPOTLE® trademark is associated with our products. Nominative use, i.e., descriptor use; is therefore not an affirmative defense where the confusingly similar use of our trademark is not necessary for identification of competitor ingredients or products. A competitor's "Fair Use" of

the descriptor Chipotle, meaning smoky or smoked chile, is all that is necessary to identify competitor ingredients or products, whereby Chuck Evans maintains no exclusive right to the word Chipotle.

Chuck Evans actively protects SMOKEY CHIPOTLE® and timely contacts all entities who implicate, infringe upon, and/or violate our exclusive intellectual property rights. Subsequent to federal registration of SMOKEY CHIPOTLE®, numerous entities (currently over 135 notifications since 1995), have been contacted requesting immediate resolution to their infringement and to terminate inappropriate usage of our trademark; including Chuck Evans request for minimal consideration in exchange for a settlement concession allowing for depletion of the infringer's existing inventory, pre-printed labels and packaging. In the majority of cases, the trademark infringement is addressed promptly and settled accordingly. In December 2007, a Petition for Cancellation of Chuck Evans' SMOKEY CHIPOTLE® trademark was dismissed with prejudice by the United States Trademark Trial & Appeal Board. In August 2008, the U.S. Trademark Office granted Chuck Evans registration of SMOKIN' CHIPOTLE® after dismissing Kraft Foods objection upon publication of Chuck's new trademark.

Certain companies, listed below, refuse to reach a satisfactory resolution when requested to cease and desist infringement of the SMOKEY CHIPOTLE® trademark. Such refusal to amicably settle infringement of our trademark pursuant to the infringer's corporate responsibilities and public and ethical obligations, requires the consideration of costly legal action to enforce protection of our registration. Therefore, in addition to federal injunctive remedies, Chuck Evans has created a public-notification alternative...an ongoing list of trademark infringers whom have ultimately refused to amicably settle their violation and/or refused to discontinue infringement of our trademark. However, such refusal does not preclude remedies of federal enforcement and injunctive relief.

Since 1998 we have issued more than 185 Cease & Desist Letters to protect our trademark. The Minority of COMPANIES (those named on this list) have EXPRESSLY Refused to Comply with Our Cease & Desist Letter and continue to infringe our SMOKEY CHIPOTLE® trademark, except where noted below.

This updated Trademark Violators list comprises TRADEMARK VIOLATORS as of 2011-2012 that refused a mutually amicable settlement agreement.

Subsequent "recent" infringers (2013-2017) are updated on the RECENT TRADEMARK VIOLATORS

1. SUBWAY Serviced by Franchise World Headquarters, LLC

DAI (Doctor's Associates, Inc.)

Fred DeLuca, President

325 Bic Drive

Milford, CT 06461

Company: World's Largest Subway Submarine Sandwich Franchisor

Infringing Product(s): Originally, Subway's Smokey Chipotle Cheesesteak Sub, subsequently on U.S. Television

advertisements: Subway's Smoky Chipotle Chicken & Cheese Sandwich

Subway's and Jessica Johnson, Attorney-Subway Global Contracts & Advertising, failure to be truthful is most perplexing

where Subway knowingly and intentionally infringed our Smokey Chipotle® trademark and directly lied about advertising their infringing Subway sandwich in writing (Subway, DAI letter dated November 15, 2012).

Disposition: Subway and Doctor's Associates, Inc. (DAI) engaged in a lengthy letter-writing campaign of denial after receiving a November 1, 2012 cease and desist letter asserting that Smokey Chipotle® was not being used to name Subway sub sandwiches in the United States, however, asserting that such protection did not extend to Australia. After repeatedly insisting that Subway was not advertising a Smoky Chipotle sandwich in the United States, to wit: "DAI does not offer the "Smoky Chipotle Chicken Sub" or the "Smokey Chipotle Sauce" in the United States." [November 15, 2012 Subway letter], Subway Smoky Chipotle Chicken & Cheese Sandwich commercials aired on local and national radio and television media throughout the end of December 2012 and January 2013, advertising the Subway Smoky Chipotle Chicken & Cheese Sandwich as the Subway featured foot-long of-the-month for January 2013.

Subway's January 7, 2013 letter stated: "Subway Franchisee Advertising Fund Trust Ltd. has decided to stop using the adjective "smoky" from being directly used before the word Chipotle in its advertisements?" SFAFT plans to phase out its use of the adjective "smoky" before all mentions of Chipotle before February 15, 2013."

The LESSON: Most importantly, Jared needs an honest employer; and certainly IF the public actually believes the unlikely SUBWAY commercials he starred in for years! After flat-out denying Subway's use of Smokey Chipotle in the United States and the infringement of our Smokey Chipotle® trademark, Subway and Jessica Johnson ADMIT to using the trademark in the United States. It never ceases to amaze about the complete lack of ethical integrity when it comes to property rights by United States titans of industry and international corporations. It is no wonder why the world continues down the dire straits path it is on?directly the fault of dishonest political factions and ethically-bankrupt corporations , i.e., Subway!

2. JBS Swift Premium Meats

Nick White, Inside Corporate Counsel

1770 Promontory Circle

Greeley, CO 80634

Company: America's Largest Beef & Pork Meat Processor and Purveyor

Infringing Product: JBS Swift Premium Smokey Chipotle Dry Rubbed St. Louis Style Pork Spareribs

Disposition: JBS Swift Premium Meats, through inside corporate attorney Nick White, Esq. refused to respond to the September 10, 2012 cease & desist letter. Pursuant to many telephone messages, Nick White finally left a message that JBS would discontinue their infringing product name as of December 31, 2012, however, he stated that he would not respond to the cease and desist letter in writing. JBS knowingly and intentionally continued to use the Smokey Chipotle® trademark without agreement or license, i.e., knowingly infringing our trademark. Subsequently, it was determined that JBS Swift Premium Meats has had many issues with tainted and recalled meat products and it is policy for legal counsel, i.e., Nick White, to not address legal matters in writing. Certainly, it is important that MONTEZUMA Brand Smokey Chipotle® Meat Grillin' Spice Rub product in no way reflect the poor cleanliness, and apparent unhealthy and unsanitary practices; nor be associated in any way, with JBS Swift Premium Meats.

3. Mizkan Americas, Inc. ? Settlement Agreement Achieved August 2014

Perla Kuhn, Attorney & Partner @ Edwards Wildman, 750 Lexington Avenue, NY, NY 10022

1661 Feehanville Drive, Ste. 300

Mt. Prospect, IL 60056

Company: Mizkan Group is one of the world's largest food manufacturers headquartered at Handa, Aichi, Japan

Infringing Product: Mizkan El Diablo Smokey Chipotle Hot & Spicy Mustard

Disposition: Mizkan Americas, one of many world-wide divisions of the Japanese conglomerate, refused to reach a mutually amicable settlement agreement for infringing a product in the same category Class 30 which protects our Smokey Chipotle® trademark. Mizkans, through their arrogant outside counsel, Perla Kuhn, dictated in a curt telephone call, that Mizkans America would stop using the trademark name, however, she states that Mizkan would not cease and desist the continued sale of existing infringing mustard product in warehouse and store inventories. Interestingly, on Mizkans website, i.e., their ?Vision?, which is several pages in length, goes into great detail about Mizkan Japan's Corporate Philosophy, Culture, Ethics Standards. Specifically, Mizkan states: ?Same as managing all corporate assets, rights, and information property, we respect those of others. We never infringe upon nor abuse other's assets, rights, and information.? Mizkan, Mizkans America, and Perla Kuhn of Edwards Wildman, are quite simply, dishonest.

Subsequent Issue October 2013: The infringing product was found being placed on shelves nearly a year later. Mizkan and Perla Kuhn were contacted and Mizkan claimed that their distributors were at fault. Regardless, Mizkan Americas completely failed to enforce their previous unilateral claim that Mizkan was to discontinue the infringing label.

4. Chili's Grill & Bar Restaurants

Brinker International

6820 LBJ Freeway

Dallas, TX 75240

Company: International Restaurant Franchisor

Infringing Product: Chili's Smoky Chipotle Fajitas

Disposition: A cease and desist letter was sent to Chili's on October 10, 2012. After no response from Chili's, another letter was sent. Finally, months later Chili's VP and Asst. General Counsel Bryan McCrory responded that a consumer would not be confused on whether Chili's used a ?smoky chipotle? sauce that was not bottled for its fajita product. However, Chili's failed to address that a

likelihood of confusion exists when advertising that their product is made with our trademarked Smokey Chipotle® sauce, which name is also our intellectual property right. Bryan McCrory wrote that Chili's would discontinue the infringing name when it changed Chili's Restaurants menus and on Chili's time frame, regardless of stealing property that does not belong to Chili's Restaurants or Brinker International.

5. Quizno's Subs?REPEAT OFFENDER

1001 17th Street, Ste. 200

Denver, CO 80202

Company: U. S. Sandwich Restaurant (Submarine) Franchisor

Infringing Product: Quizno's Smoky Chipotle Turkey Sandwich. It is important to address that Quizno's has infringed the Smokey Chipotle trademark on numerous occasions over the past decade. Quizno's Subs never responds to our certified cease and desist letters, however, Quizno's eventually drops the infringing name from its menu?only to resurrect a new sandwich name which infringes our property rights.

Disposition: Quizno's business practices and corporate ethics leave much to be desired and are probably the reason why their financial situation is in dire straights. A cease and desist letter for this latest infringement was sent February 3, 2012.

6. Panera Bread

6710 Clayton Road

Richmond Heights, MO 63117

Company: U.S. Bread & Sandwich Restaurant Chain

Infringing Product: Panera Sierra Turkey Sandwich made with Smoky Chipotle Mayonnaise

Disposition: A cease and desist letter was sent May 31, 2011. Panera Bread failed to respond. It is believed that the infringing product was removed from the menu.

7. Robert Rothschild Farm

?Reached Agreement with Previous Owners?however, New Ownership failed to HONOR Agreement & continues to ignore subsequent requests to terminate infringement of trademark.

3143 E. US Highway 36

Urbana, OH 43078

Company: U.S. Specialty Food Distributor (no longer manufactures)

Infringing Product: Robert Rothschild Farm Anna Mae's Smoky Sweet Chipotle Sauce

Disposition: A letter was sent to Robert Rothschild Farm on January 15, 2012 addressing the previous agreement where Robert Rothschild Farm agreed to discontinue the infringing name. An October 1, 2012 letter was sent where no response was made by Robert Rothschild Farm. A November 11, 2013 Cease & Desist Letter was mailed and a follow-up letter was sent December 30, 2013. Where Robert Rothschild Farm is presently owned by an inexperienced investment group it is apparent from the deterioration of the Robert Rothschild Farm brand that it does not have the managerial capability to properly operate a specialty food distributorship. This matter remains pending where the infringing product remains for sale in retail stores.

8. Gilly Loco Salsa

10655 Montgomery Blvd. NE

Albuquerque, NM 87111

Company: Regional Salsa Manufacturer

Infringing Product: Gilly Loco Smokey Chipotle Salsa

Disposition: Owner Laura Lopez agreed to discontinue the infringing label in March 2012 at the Albuquerque Fiery Foods & BBQ Show in 2012. At the same subsequent venue in March 2013 she continued to flaunt the infringing label. On March 10, 2013, a certified cease and desist letter was mailed, as well as, several follow-up letters; all of which she failed to address. It is disturbing that Laura Lopez lied to me personally about resolution of the DIRECT infringement and copying of my Smokey Chipotle® salsa and property rights.

9. Organic Prairie

1 Organic Way

LaFarge, WI 54639

Company: Agriculture Cooperative Manufacturer/Distributor of alleged organic products

Infringing Product: Organic Prairie Smoky Chipotle Beef Jerky

Disposition: Failed to address cease and desist letter sent June 10, 2013 and subsequent letters. NOTE that this is the second infringement over the past half decade, both of which have been ignored by Organic Prairie, which leads one to question the ethical integrity of the assertions made regarding their products.

10. The Spice & Tea Exchange

407 Marshall Circle

St. Augustine, FL 32086

Company: U. S. Specialty Food Importer/Distributor

Infringing Product: Smoked Chipotle Salt

Disposition: Attorney Breton Permesly at Kaufman Gildin Robbins & Oppenheim LLP responded on April 30, 2013 that TSTE is not infringing our Smokey Chipotle® or Smokin' Chipotle® trademarks. He failed to respond to our subsequent letter as no resolution has been achieved.

ET AL, ? In 2011, a number of smaller business entities infringed upon the Smokey Chipotle® or Smokin' Chipotle® trademarks, subsequently failing to reach a mutually-amicable settlement agreement:

Cape Fear Salsa 5828 Oak Bluff Lane Wilmington, NC 28409

Ransom's Jelly Company 200 Loxley Lane Murfreesboro, TN 37127

Carmie's Kitchen, Inc. 210 Windco Circle Wylie, TX 75098

Chua Choclatier 2345 Camino Vida Roble San Diego, CA 92011

980 Group Sauces 179 Civitas Street Mt. Pleasant, SC 29464

Since 1998 we have issued more than 135 Cease & Desist Letters to protect our trademark. The Majority of COMPANIES (those named on this list) have EXPRESSLY Refused to Comply with Our Cease & Desist Letter and continue to infringe our SMOKEY CHIPOTLE® trademark, except where noted below.

1. QUAKER STEAK & LUBE

Chestnut Street

Sharon, Pennsylvania 16146

Company: Corporate Copy-Cat Chicken Wing Purveyor

Product: Smoky Chipotle Chicken

Disposition: After receiving our November 9, 2010 cease and desist letter, Quaker Steak & Lube failed to acknowledge and resolve their intentional infringement of our Smokey Chipotle® trademark and continued to steal Chuck's property right in naming their unoriginal and copycat chicken products and sauces.

2. APPLEBEE'S RESTAURANTS

Renner Blvd.

Lenexa, Kansas 66219

Company: Corporate Restaurant Service Company

Product: Applebee's SMOKEY CHIPOTLE Chicken Fajita Rollup

Disposition: Applebee's esteemed outside law firm: Stinson, Morrison, Hecker, LLP wrote on July 28, 2010: "As you may know, Applebee's is the owner of many registered trademarks on its own...Accordingly, it is very eager to ensure that its activities do not infringe any third party's valid trademark rights...{Applebee's} intends to take no action on your cease and desist/settlement demand." Obviously, Applebee's has no concern for Chuck's incontestable (as a matter of law) trademark which denies Applebee's descriptive use of Chuck's Smokey Chipotle trademark on their menu.

3. YUM! BRANDS, INC. D/B/A KFC -Kentucky Fried Chicken -

*** March 2009 Settlement Agreement Concludes the Colonel's Infringement***

Gardiner Lane

Louisville, Kentucky 40213

Robert Millen, Senior Vice-President Litigation

Phillip Davison, Trademark Counsel

Independent Legal Counsel Retained to Defend KFC...

Townsend and Townsend and Crew LLP: David Sipiora & Shelley Mixon

Company: Largest Fast-Food Conglomerate in the World (35,000+ restaurants)

KFC/Kentucky Fried Chicken is the Largest Fast Food Chicken Restaurant Chain in the World (14,000+ worldwide units/5,300 KFC units in the United States)

Other Yum! Brand Companies: Taco Bell, Pizza Hut, Long John Silver's and A&W Foods

Product: KFC SMOKY CHIPOTLE CRISPY FRIED CHICKEN

Disposition: More than 65 years after Colonel Sanders introduced his Original Recipe fried chicken along with Extra Crispy which was added 20 years ago, KFC has added "just its third flavor to the menu-Smoky Chipotle Crispy." KFC settled the infringement.

4. KRAFT FOODS, NORTH AMERICA

KRAFT FOODS LOST 2 Legal Challenges at the U.S. Trademark Office to Cancel Smokey Chipotle (2007) & Smokin'Chipotle (2008) Trademarks Result: KRAFT FOODS IS THE EPITOME OF A MULTI-NATIONAL BULLY demonstrating No Respect for Stealing Property of Others

Three Lakes Drive

Northbrook, Illinois 60091

Company: Multi-National Conglomerate Packaged Food Manufacturer

Product: KRAFT BULLSEYE Barbecue Sauce SMOKIN' CHIPOTLE

Disposition: Immediately upon receiving Chuck's cease and desist request in 2006, Kraft Foods decided to throw its corporate weight around, conspiring in the filing of a cancellation proceeding against Chuck's incontestable trademark, Smokey Chipotle; as well as filing an objection to registration upon official publication of Chuck's new trademark registration, Smokin'Chipotle.

In December 2007, the Trademark Trial and Appeals Board dismissed with prejudice, the Petition for Cancellation of Smokey Chipotle where Kraft Foods conspired with Urban Accents, Inc. (listed below) in a failed challenge by alleging Smokey Chipotle is a generic phrase for a chile chipotle (a variety of processed chile, i.e., a spice); heretofore the word "chipotle" was already disclaimed as a condition of registration at the U.S. Trademark office in 1995.

On August 28, 2008, the USPTO dismissed with prejudice, and terminated Kraft's opposition to publication of Chuck's new Smokin' Chipotle® trademark registration.

5. SARA LEE CORPORATION - Appears to have Discontinued Infringing Item

Three First National Plaza

Chicago, Illinois 60602-4260

Company: Multi-National Meat and Processed Food Manufacturer

Product: SARA LEE SMOKIN CHIPOTLE Seasoned Breast of Turkey

Disposition: On August 25, 2006 a cease and desist letter was received and ignored by Sara Lee Corporation. In late October, outside counsel Randy Springer of Womble Caryle LLC in Winston-Salem, North Carolina responded via telephone assuring us that a written response would be forthcoming. No response was ever sent. Over the next four months, we made numerous attempts to contact Mr. Springer. Mr. Springer ignored our messages. Subsequently, in late February 2007 Sara Lee Corporation unilaterally dictated terms and conditions of a verbal "agreement" to knowingly and intentionally infringe upon the Smokey Chipotle trademark over the next seven months. This matter remains pending.

6. RIBA FOODS, Inc.- Continues to Steal Property & Copycat Products

P.O. Box 630461

Houston, Texas 77263

Miguel Barrios, Jr., President

Company: American Food Manufacturer

Product: ARRIBA! SMOKED CHIPOTLE BEAN DIP

Disposition: Riba Foods, Inc., manufacturer of ARRIBA! brand products, refused to respond to our Certified Letter sent January 12, 2006 and failed to respond to several subsequent letters. This is the second, and separate item, infringement of our trademark by Riba Foods, Inc., who has intentionally ignored our request for an amicable settlement to discontinue use of their confusingly similar product name. This matter remains pending.

7. GOYA FOODS, Inc.- Continues to Steal Property & Copycat Products

Seaview Drive

Secaucus, New Jersey 07096

Robert Unanue, CEO

Company: Large International Hispanic Foods Manufacturer & Distributor

Product: Goya Salsita

Smoky Hot Chipotle Chiles Hot Sauce

Disposition: Implicating our uncontested trademark, multi-national food manufacturer Goya Foods, Inc. refused to respond to our Certified Letter signed return receipt on January 17, 2006 and failed to respond to several subsequent letters. This matter remains pending.

8. SCHY-TOWN, INC.-Company Appears to be Out-of-Business

P.O. Box 2424

Northbrook, Illinois 60065

Dave Schy, Owner

Company: Regional Sauce Manufacturer/Marketer of Spicy Ketchup-based Products

Product: Ketchup Hot & SMOKEY CHIPOTLE Peppers

Disposition: After several correspondences pursuant to Mr. Schy's intentionally-deceptive method of responding solely via FAXes (where he lists no return phone number and no return FAX number), Mr. Schy apparently decided that mutual settlement of his direct infringement of Smokey Chipotle was not important enough to settle accordingly. Mr. Schy claimed upon notification that he had already corrected his website, which he did not, and would change his label.

This matter remains pending.

9. FIGUEROA BROTHERS & CHEECH MARINS CHEECH FOODS DOT COM

-Company Appears to be Out-of-Business

Regal Row, Suite 128

Dallas, Texas 75247

Greg/David Figueroa, CEO/President

Company: American Food Manufacturer, Distributor, & Licensee

Product: CHEECHS SMOKIN CHIPOTLE HOT SAUCE

Disposition: Figueroa Brothers and Cheech Marin's Foods refused to respond to our Certified Letter signed return receipt sent March 15, 1999 and continue to intentionally ignore our federal registration through uninterrupted use of a confusingly similar phrase in the

sale of this Cheech Foods Dot Com product. The manufacturer and licensee have continuously marketed their product implicating our SMOKEY CHIPOTLE® trademark. Pursuant to Chuck's new registration this matter remains pending. However, it appears that the infringing product may have been discontinued.

10. SCOTTY B's HOT SAUCE - Company Appears to be Out-of-Business

21st Street

Lewiston, Idaho 83501

Scott Bailie, Owner

Company: American Food Manufacturer

Product: Scotty B's SMOKEY CHIPOTLE PEPPER SAUCE

Disposition: Tiny manufacturer Scotty B's Hot Sauces refused an amicable settlement on January 19, 2006 by asserting a ridiculous excuse that the words Smokey and Chipotle were not on the same line and that the words comprising our registered trademark were different colors on his label, therefore Mr. Bailie concluded that Scotty Bs was not infringing upon our trademark. At present, it is believed that the infringing mark has been removed from their labels, however, subsequently as of September 8, 2006, Scotty B's introduced a second hot sauce labeled Smok'in BBQ Flavor Chipotle Pepper Hot Sauce where the words Smok'in and Chipotle are directly positioned above and below each other on their label infringing upon Chuck's trademark for the second time. At present, there is no information on whether this company remains in business.

11. URBAN ACCENTS, INC.-LOST LEGAL CHALLENGE-Operates as sore Loser

West Bertreau, 5th Floor

Chicago, Illinois 60613

Company: American Specialty Foods Marketer & Distributor

Product: SMOKY CHIPOTLE POPCORN SEASONING

Disposition: In late July 2006, Urban Accents, Inc. through their counsel, Patton Boggs, LLP, filed a Petition for Cancellation No. 92046091; alleging generic use of Smokey Chipotle before the U.S. Patent and Trademark Office Trial and Appeal Board, alleging that the phrase "smokey chipotle is the common generic name for any sauces, spices, or other food products containing hot peppers". {See Petition @ para. 6.} In December 2007, the Trademark Trial and Appeals Board dismissed, with prejudice, their Petition for Cancellation. Smokey Chipotle is not a generic name for an ingredient and our trademark was upheld. Urban Accents continues to market the infringing product and this matter remains pending.

12. MONTY'S GOURMET FOODS, LLC -Company Appears to be Out-of-Business

North Main Street

Ottawa, Kansas 66067

Monty Fritts, Owner

Company: American Food Distributor

Product: Monty's SMOKIN' CHIPOTLE BBQ SAUCE

Disposition: Pursuant to notification on September 25, 2007, food marketer Monty Fritts continues to ignore repeated requests to cease and desist infringement of our trademark. We are not sure if this small marketer of re-labeled products remains in business.

13. MEIJER, Inc.-Discontinued Infringing Product

Walker, N.W.

Grand Rapids, Michigan 49544-9428

Wendell P. Russell, Jr., Senior Counsel

Company: Large Midwest Grocery retailer headquartered in Michigan

Product: Meijer Gold Brand Smoky & Spicy Chipotle Salsa

Disposition: Michigan-based grocer Meijer, Inc. refused amicable settlement on March 7, 2006, however, Senior Counsel Wendell

P. Russell, Jr. knowingly continued infringement of our trademark by admission of Meijer's continued use. The infringing product was subsequently discontinued shortly thereafter.

14. EPICUREAN FOODS INTERNATIONAL- Company Appears to be Out-of-Business

Mill Street, Unit #9

Kitchner, Ontario, Canada N2M568

Greg Sproat

Company: Canadian Food Manufacturer & Distributor

Product: SMOKEY CHIPOTLE PEPPER SALSA & DIP

Disposition: Canadian Epicurean Foods refused to settle trademark infringement of our SMOKEY CHIPOTLE trademark as of August 15, 2005 asserting that no claim could be made under Canadian trademark law, however, after admitting in the same conversation that Epicurean Foods sold products to U.S. consumers via the internet and regularly exhibited at the annual International Fancy Food & Confection Show in New York City sampling their product line (in the USA) to procure sales. This company has infringed our trademark a second time and the matter remains pending.

15. JERSEY MIKE'S SUBS-Discontinued Infringing Product

Landmark Place

Manasquan, New Jersey 08736

Company: American Submarine Sandwich Franchisor

Product: SMOKY CHIPOTLE MAYONNAISE

Disposition: New Jersey-based Jersey Mike's Subs refused to respond to our Certified Letter sent January 17, 2004 and failed to respond to several subsequent letters implicating our SMOKEY CHIPOTLE® trademark. The product was removed from their menu.

16. TOPCO ASSOCIATES, LLC - Discontinued Infringing Product

Gross Point Road

Skokie, Illinois 60077

Steve Lauer, CEO

Company: Large North American Food Manufacturer & Marketer of Private Label Products for many large Grocery Store Chains in the United States

Product: World Classics Trading Co. Southwestern Style SMOKY CHIPOTLE Salsa

Disposition: A letter was sent on April 28, 2006 by Carol Genis, associate for the law firm of Bell, Boyd, & Lloyd, LLC, in response to our certified letter dated April 24, 2006 requesting a settlement resolution of Topco's obvious infringement. Ms. Genis states, "Please be advised that I am in the process of reviewing the issue with my client and will respond to you in short order." After waiting patiently for more than a month and then making subsequent attempts to reach Topco's crackerjack counsel, it is clear that Ms. Genis had no intention to respond. Topco discontinued their infringing product.

17. BYRDCLIFFE COOKERY,LLC -Company Appears to be Out-of-Business

South Pine Creek Road

Fairfield, Connecticut 06824-6348

Company: American Food Manufacturer

Product: What You do with Tofu! SMOKY CHIPOTLE

Disposition: Small Organic food manufacturer Byrdcliffe Cookery refused to respond to our Certified Letter sent February 17, 2006 and failed to respond to several subsequent letters implicating our SMOKEY CHIPOTLE trademark. At present, there is no information on whether this company remains in business.

18. WILLIE B's GOURMET FOOD PRODUCTS-Claimed to Discontinue Item Name

P.O. Box 971
Rockwall, Texas 75087
Steve Deere, President
Company: American Food Manufacturer
Product: Willie B's Texas Style SMOKEY CHIPOTLE Bar-B-Que Sauce

Disposition: Small manufacturer chose to discontinue infringing upon our SMOKEY CHIPOTLE trademark. However, Willie B's refused to address other matters, therefore, failing to reach a mutually satisfactory settlement.

19. WILDLY DELICIOUS FINE FOODS-Company Appears to be Out-of-Business

Railside Road
Toronto, Ontario
Canada M3A 1B2
Austin Muscat, COO
Company: Canadian Food Manufacturer with USA Distribution
Product: Wildly Delicious SMOKY CHIPOTLE & Chilli Spice Paste

Disposition: Wildly Delicious did not respond to our Certified Letter sent April 21, 2006 and failed to respond to several subsequent letters implicating our SMOKEY CHIPOTLE® trademark.

20. DESERT GARDENS/COMFORT FOODS, INC.-Items appear to be discontinued

Montgomery Blvd. NE
Albuquerque, New Mexico
Company: Manufacturer of Spices & Seasonings
Product: Desert Gardens SMOKIN' CHIPOTLE Seasoning & SMOKEY CHIPOTLE Cornbread Mix

Disposition: Desert Gardens did not respond to our Certified Letter sent April 21, 2006 and failed to respond to several subsequent letters implicating our SMOKEY CHIPOTLE® trademark.

21. NORTH of the BORDER-Company Appears to be Out-of-Business

P.O. Box 433
Tesuque, New Mexico 87574
Company: Small American Food Marketer & Distributor
Product: North of the Border SMOKEY Jose's CHIPOTLE Salsa & SMOKEY Jose's CHIPOTLE Spice Mix

Disposition: North of the Border, another New Mexico company, did not respond to our Certified Letter sent April 24, 2006 and failed to respond to several subsequent letters implicating our trademark. This small company has intentionally and repeatedly attempted to confuse customers by capitalizing on our SMOKEY CHIPOTLE® trademark. This matter remains pending.

22. SPICE CONNECTIONS -Company Appears to be Out-of-Business

Voss Circle
Blair, Nebraska 68008
Company: Small Spices & Seasonings Marketer
Product: Spice Connections SMOKED CHIPOTLE Cheese Spread and Dip Mix

Disposition: Spice Connections did not respond to our Certified Letter sent April 24, 2006 and failed to respond to several subsequent letters implicating our SMOKEY CHIPOTLE® trademark.

23. WHOLE FOODS MARKET-Discontinued Infringing Product

Bowie Street
Austin, Texas 78703-4677
Company: Largest North American Natural Food Grocer & Marketer
Product: 365 Organic SMOKED CHIPOTLE Marinade

Disposition: Whole Foods Markets did not respond to our April 24, 2006 Certified Letter until July 31, 2006, and only after several follow-up documents were mailed to elicit a response. Employing outside counsel, Whole Foods claimed that their use of the infringing mark was discontinued and that the matter was settled.

24. QUIZNOS SUBS-Discontinued Infringing Product

Lawrence, Ste. 400
Denver, Colorado 80202
Company: American Submarine Sandwich Master Franchisor
Product: SMOKY CHIPOTLE PEPPER SAUCE

Disposition: Denver-based Quizno's Subs refused to settle infringement of our SMOKEY CHIPOTLE® trademark pursuant to their last correspondence dated April 28, 2004 and prior to conclusion of their national television advertising campaign. Subsequently, the product was removed from their menu.

25. THREE HOT TAMALES, LLC - Company is Out-of-Business

Shaw Street
Garfield, New Jersey 07026
Company: Start-up Manufacturer of Sauces & Rubs
Product: Three Hot Tamales SMOKIN' CHIPOTLE BBQ SAUCE

Disposition: Company appear is out of business.

EPILOGUE

Most companies, from the smallest mom-and-pop operators to the largest food processors and multinational corporations recognize their responsibilities to the general public and the associated costs incurred by a trademark owner to protect intellectual property rights. These entities, through a mutually agreed settlement, promptly terminate any and all likelihood of confusion for their inadvertent infringement of our uncontested SMOKEY CHIPOTLE® trademark.

However, due to the confidentiality of the Settlement Agreements, Chuck Evans MONTEZUMA® Brand, is not at liberty to disclose the names of the many companies and individuals that value and uphold their ethical, civic, corporate, and legal obligations to voluntarily comply with federal law, i.e., Title 15 of the United States Code, commonly known as the Lanham Act.